

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of:

**Reallocation of the 216-220 MHz,
1390-1395 MHz, 1427-1429 MHz,
1429-1432 MHz, 1432-1435 MHz,
1670-1675 MHz and 2385-2390 MHz
Government Transfer Bands**

**WT Docket No. 02-08
RM-9267
RM-9692
RM-9797
RM-9854
RM-9882**

To: The Commission

COMMENTS

Paging Systems, Inc. ("PSI"), by its attorneys and pursuant to Notice of Proposed Rule Making, WT Docket No. 02-08, RM-9267, RM-9692, RM-9797, RM-9854, RM-9882, released February 6, 2002, 67 Fed. Reg. 7113 (2002)("NPRM"), hereby submits its Comments in the above-referenced proceeding.

The Commission invited Comments to be filed 15 days following publication in the Federal Register or March 4, 2002.

I.

BACKGROUND

As part of its NPRM which proposes new service rules for 27 megahertz of spectrum, the Commission addresses several issues relating to existing services in the 216-220 MHz band:

- A Petition for Rulemaking filed by Data Flow Systems, Inc. ("Data Flow") on March 6, 2000 requesting that the FCC amend §§ 90.35 and 90.259 to allow the use of fixed telemetry in the 216-220 MHz band;

- A proposal filed by Securicor Wireless Holdings, Inc. (“Securicor”) on March 8, 2001, which seeks to license “white-space” similar to that established for the 220-222 MHz band and establish 5 kHz channels in the 217-220 MHz band; and
- Whether secondary telemetry in the 217-220 MHz should be licensed on a site by site basis.

PSI will comment only on these proposals that affect the 216-220 MHz frequency band.

II.

STATEMENT OF INTEREST

PSI is a Commercial Mobile Radio Service (“CMRS”) provider offering service to the maritime community and land mobile public over Automated Maritime Telecommunications System (“AMTS”) licenses under Part 80 of the Commission's Rules, on the west coast of the United States from Mexico to Canada and in Hawaii; on the east coast from Maine to Puerto Rico; and in the Great Lakes region.

PSI supports the Commission's efforts to protect the incumbent licenses from interference, increase flexibility for licensees to promote innovative telecommunications services, improve communication capabilities and reduce regulatory burdens.

III.

DISCUSSION

A. Existing Users in the 216-220 MHz Band.

As a preface to its discussion, PSI highlights the Commission discussion in the NPRM at ¶¶23-24 which enumerates the present users in the 216-220 MHz band. The existing Non-Government incumbents in this band include AMTS

operators, the “218-219 MHz” Service and the Low Power Radio Service (“LPRS”)¹, with TV Channel 13 operations at 210-216 MHz affecting some users in this band. In the Reallocation Report and Order at ¶19, the Commission retained Non-government operations on secondary basis, including telemetry, amateur operations and wildlife/ocean buoy tracking operations. In addition, Government incumbent operations in this band include U.S. Navy’s Space Surveillance (SPASUR) Radar system and the U.S. Coast Guard’s 30 airsearch radars on a secondary basis. The Government will also continue to operate fixed and land mobile services on a secondary basis, limited to telemetering and telecommand operations. The Commission prohibited new Government and Non-Government secondary telemetry assignments in the 216-217 MHz portion of the band after January 1, 2002 to protect LPRS operations.

B. Data Flow’s Proposal

PSI opposes Data Flow’s proposal to amend §§90.35 and 90.259 to facilitate the use of 216-220 MHz band for fixed telemetry purposes for water utility companies. Data Flow requests that the Commission add fixed station operation to the classes of stations permitted for telemetry in §90.35 and to change “shall” to “may” in §90.259 to read: “base stations authorized in these bands *may* be used to perform telecommand functions with associated mobile telemetering stations.”

¹ In the Report and Order and Memorandum Opinion and Order, ET Docket No. 00-221, FCC 01-382, ¶57, released January 2, 2002 (“Reallocation Report and Order.”), the FCC elevated LPRS to primary status in the 216-217 MHz portion of the band.

PSI submits that, based on the clear intent of previous Commissions in the rulemakings to promulgate those rules², as well as the existing number and variety of users in the 216-220 MHz band, the Commission should not introduce *any* modifications to its rules to expand the use of the frequencies to secondary users.

While the Commission has retained the use of the band for telemetry on a secondary basis, the Commission should not revise its rules to accommodate these secondary users. PSI submits that the emphasis must be on the primary users of this band. As the Commission itself insists in this NPRM at ¶59, “secondary operations must always defer to primary incumbents in an environment where these primary incumbents *may increase* operations and have preference.” (Emphasis added.)

In the alternative, should the Commission accommodate Data Flow in amending §90.35 as requested, the Commission should adopt coordination requirements for fixed telemetering operations which parallel the provisions of 47 C.F.R. §97.303(e).

With regard to §90.259, the present Commission’s Rule is as it should be for a secondary operation. Further, because Data Flow did not provide any rationale that would override the Commission’s concern for interference protection to primary users in its petition for rule making, the Commission’s Rule §90.259 should not be changed.

C. Securicor’s Proposal

Securicor, holder of numerous 220-222 MHz licenses, proposed the same

² See Comments of Mobex Communications, Inc. (Mobex) and its subsidiary, Regionet Wireless License, LLC (Regionet) in this proceeding.

bandwidth configuration of that service for the 216-220 MHz band. SecuriCor requested that the FCC establish 5 kHz channels in the 216-220 MHz band and allow aggregations, partitioning, disaggregation and spectrum leasing to provide flexibility. It further proposed that the Commission license “white space” in the 216-220 MHz band.

In response to this request, the Commission asserts in the NPRM at ¶48 that there is heavy incumbent use of the 217-220 MHz band which makes it difficult to create a new band plan and that the balance of the band is either subject to competitive bidding or is proposed to be subject to it. Thus, it would appear that Commission is not favorably disposed to SecuriCor’s proposal. PSI agrees with that view. The established bandwidths should not be broken into smaller segments at this point, except by the choice of the AMTS licensees and provided that the licensees do not cause harmful interference to other licensed users. This optional plan would be far superior to a Commission imposed plan for this established band.

Further, PSI submits that SecuriCor has not demonstrated precisely why the 216-220 MHz band should be modeled after the 220-222 MHz band. Accordingly, the Commission should deny SecuriCor’s proposal.

However, in the event that the Commission does grant the proposal, only the underutilized frequency band of 218-219 MHz should be subject to the new band plan. The AMTS frequencies should remain unchanged.

D. Secondary Telemetry (217-220 MHz)

PSI opposes new licensing of telemetry in the AMTS bands and proposes that telemetry be confined to the underutilized 218-219 MHz band. PSI agrees

with the Commission in the NPRM at ¶59 that secondary telemetry should only be licensed on a site-by-site basis (“Secondary users must not cause harmful interference to the primary operations of AMTS and the ‘218-219 MHz Services.’”) Licensing on a site-by-site basis will aid in immediately locating the source of interference, whereas a geographic license would cover a wide area and thus would make it more difficult to track the interference source.

IV.

CONCLUSION

WHEREFORE, the above premises considered, PSI respectfully requests that the Commission consider its Comments in the above-referenced proceeding.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I, the undersigned, do hereby certify that on the 4th day of March, 2002, a true and correct copy of the above and foregoing **COMMENTS** was sent by U.S. Mail, with proper postage thereon fully paid, to:

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